

SENATE BILL REPORT

SSB 5779

As Passed Senate, March 10, 2009

Title: An act relating to the state board of health adopting rules that impact school districts.

Brief Description: Regarding adoption of school environmental health and safety rules.

Sponsors: Senate Committee on Early Learning & K-12 Education (originally sponsored by Senators McAuliffe, Hobbs, Jarrett and Tom).

Brief History:

Committee Activity: Early Learning & K-12 Education: 2/18/09, 2/23/09 [DPS, DNP].
Passed Senate: 3/10/09, 40-7.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: That Substitute Senate Bill No. 5779 be substituted therefor, and the substitute bill do pass.

Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; King, Ranking Minority Member; Brandland, Hobbs, Holmquist, Jarrett, McDermott and Tom.

Minority Report: Do not pass.

Signed by Senator Oemig, Vice Chair, K-12.

Staff: Kimberly Cushing (786-7421)

Background: The State Board of Health (Board) is established in the Washington State Constitution. Under current law, in order to protect public health, the Board must adopt rules related to environmental conditions in all types of public facilities, including schools.

In 1960 the Board first adopted rules addressing school health and in 1971 the existing rule framework was adopted. The current rules were established as minimum environmental standards for educational facilities and briefly address issues such as site approval, plan review and inspection, plumbing, water supply and fixtures, sewage disposal, ventilation, heating, temperature control, sound control, lighting, food handling, and safety.

In 2003 the Board began reviewing the school health and safety rules, which culminated in a proposed rule. On October 8, 2008, the Board agreed to delay a vote to adopt the rules until

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no later than June 2009. The purpose of the delay was to give the Legislature an opportunity to consider funding for the rule.

Summary of Substitute Bill: In the intent section, the Legislature commends the Board for its commitment to making schools safe and healthy for all children. While the Legislature is also committed to the health and safety of Washington's children, it recognizes that it cannot practically implement the Board's proposed school environmental health and safety rules without an extended phase-in period due to budget constraints.

During the period January 1, 2009, until January 1, 2015, before the Board implements any rules pertaining to primary and secondary school facilities, the Board must present (1) the rules; and (2) a final cost estimate to the Legislature. The Legislature must formally approve the implementation of the rules through the budget, or by statute, or by concurrent resolution. The Legislature may incrementally phase in appropriations to support the school rules until full implementation can be achieved. School districts are encouraged to review the Board's rules and to consider implementing those that have no fiscal impact.

Sections 1 and 2 of the bill expire January 1, 2015.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony on Original Bill: PRO: We really do want our kids to come to a safe place; however, an agency is telling schools what they must do without providing funding. We know what is good for children, but we need to determine what we have the funds for. The downturn in economy was not anticipated, and districts face serious budget challenges. The rules have substantial costs. What one entity calls a “no-cost” item can be interpreted very differently by school districts. The rules will have a tremendous impact on local health districts as well. This bill ensures that school districts are not faced with unfunded mandates. School districts would otherwise be faced with implementing these rules or impacting the educational environment, for example, by cutting staff which would increase class sizes or reduce nurses. Districts care deeply about the health and safety of students and staff and will provide for health and safety within the limitation of resources provided. Thus, districts support the direction outlined in the bill. The rules must be implemented in coordination with the legislative budget process, and an incremental phase in would be helpful. The impacts must be adequately analyzed; many small school districts have very small staff and no in-house expertise to deal with these health and safety issues and will have to hire outside consultants. While we commend the work of the Board, we also appreciate the intervention of the Legislature. School districts have hard decisions to face.

CON: The rules have not been updated in over 40 years, during which time environments, including chemicals, have changed. The rule revision was an open process, and many people worked hard to ensure that the rules are fair and just. It is time to implement new rules.

Delaying the rules that have low or no cost implications puts staff and students at risk. School buildings are in decay. School officials will not fix the buildings on their own. These issues impact children and adults in the classroom on a daily basis. If an adult is getting sick because of an environmental concern, students have to be sick as well because their systems are still developing. Kids with asthma have higher absentee rates and are less academically prepared. We must protect these children. You can choose the water you drink, but not the air you breathe. We hope funding can be provided and are reviewing to the federal stimulus package to find resources.

OTHER: We have been working on the rule for over five years, and the Board is in unanimous agreement. The rules are scientifically sound, and it has been a participatory process. The Legislature is welcomed as partner in the process. The Board is cognizant of the concerns of school districts and local health districts. The Board is working on phasing in the rule, but financing is beyond its control. Despite the financial crisis, the Board would like to see the rules go forward because maintenance gets cut in bad times, which puts kids at more risk. There needs to be a point beyond which we do not go, such as not putting kids in moldy classrooms. A function of the rule is to identify health risks that are not necessarily noticeable. The bill is cost-effective from a societal perspective. For example, absenteeism is expensive because of medical costs. Does the bill require a permanent relationship for any future rule changes? How is a final cost estimate defined? The Board would rather identify the rules that are the subject of appropriation, and only these sections should be subject to approval by the Legislature.

Persons Testifying: PRO: Senator McAuliffe, prime sponsor; Bill Adamo, Puget Sound School Coalition; Dan Steele, Washington State School Directors' Association; John Mannix, Monroe Public Schools; Jennifer Priddy, Office of Superintendent of Public Instruction.

CON: Lucinda Young, Jill Van Glubt, Washington Education Association; Jennifer Aspelund, parent; Denise Frisine, former teacher.

OTHER: Craig McLaughlin, State Board of Health.